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**IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY**

RAYMOND LAMAR BROWN, et al.

Plaintiffs,

V.

CHARLES WARREN, et al.

Defendants.

DOCKET NO. 1:20-cv-7907-NLH-KMW

**NOTICE OF MOTION  
TO CONSOLIDATE**

Civil Action

AND

TODD FORD, JR

Plaintiff,

V.

WARDEN RICHARD SMITH

AND

WARDEN CHARLES WARREN

Defendants.

DOCKET NO. 1:20-cv-18863-RMB-AMD

Civil Action

## DEFENDANT'S MOTION TO CONSOLIDATE AND NOTICE OF MOTION

COME NOW the Defendants, Charles Warren, et al., through counsel, moves the Court, pursuant to Rule 42 of the Federal Rules of Civil Procedure, to enter an Order consolidating for trial the above-referenced cause of action, being Civil Action No. 1:20-cv-7907-NHL-KMW, and Todd Ford, Jr. v. Warden Richard Smith, et al., Civil Action No. 20-cv-18863-RMB-AMD.

RESPECTFULLY SUBMITTED this the \_6th day of April , 2021.

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

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**IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY**

RAYMOND LAMAR BROWN, et al.	:	LAW DIVISION
	:	
Plaintiffs,	:	DOCKET NO. 1:20-cv-7907-NLH-KMW
	:	
v.	:	
	:	
CHARLES WARREN, et al.	:	
	:	
	:	<b>MEMORANDUM OF LAW IN</b>
	:	<b>SUPPORT OF MOTION</b>
	:	<b>TO CONSOLIDATE</b>
	:	
Defendants.	:	Civil Action
	:	

**INTRODUCTION**

Defendants, Charles Warren, et al. (“Defendants”), through counsel, moves this Court for an order consolidating the two related actions presently pending in this district: Civil Action No. 1:20-cv-7907-NHL-KMW, and Todd Ford, Jr. v. Warden Richard Smith, et al., Civil Action No. 20-cv-18863-RMB-AMD.

Each of these actions are against overlapping defendants, relate to the same subject matter, have virtually identical factual allegations, and share common questions of both law and fact. For all of these reasons and additional reasons detailed below, Defendants respectfully request that the Court grant their motion to consolidate the above-referenced actions.

## ARGUMENT

Under Fed. R. Civ. P. 42(a), a court may consolidate actions that share a common question of law and fact. The purpose of Rule 42(a) “is to give the court broad discretion to decide how cases on its docket are to be tried so that the business of the court may be dispatched with expedition and economy while providing justice to the parties.” Wright & A. Miller, Federal Practice and Procedure, § 2381 (1971). Further, consolidation is not barred even if some questions are not common. *Batazzi v. Petroleum Helicopters, Inc.*, 664 F.2d 49, 50 (5th Cir. 1981); *see Central Motor Co. v. United States*, 583 F.2d 470 (10th Cir. 1978). In determining whether consolidation is appropriate, courts look at several factors, including the following:

Whether the specific risks of prejudice and possible confusion [are] overborne by the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of the single-trial, multiple-trial alternatives.

*Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495 (11th Cir. 1985) (quoting *Arnold v. Eastern Air Lines, Inc.*, 681 F.2d 186, 193 (4th Cir. 1982)), cert. denied, 460 U.S. 1102 (1983) and 464 U.S. 1040 (1984)).

Here, these two causes of action which are pending before the United States District Court for the District of New Jersey involve a common question of law or fact, and consolidation of these two causes of action will avoid the expense, delay, and inconvenience of separate trials. Specifically, in Civil Action No. 1:20-cv-7907-NHL-KMW, the Warden of the Cumberland County Jail is named as a Plaintiff (Warden Warren in Civil Action No. 1:20-cv-7907-NHL-KMW, and Warden Smith in Civil Action No. 20-cv-18863-RMB-AMD). In Civil Action No. 20-cv-18863-RMB-AMD and 1:20-cv-7907-NHL-KMW, a pretrial detainee of the Cumberland County Jail is the Defendant. Both causes of action allege that the Cumberland County jail has

violated the constitutional rights of pretrial detainees by not adequately providing conditions to protect against COVID-19. The witnesses and much of the discovery in both cases, if not identical, should be very similar. Consolidating these two actions presenting a common issue of law and fact would result in trial convenience and judicial economy. Consolidating these actions would also avoid a multiplicity of suits, prevent delay, help clear the Court's docket, and save numerous costs and expenses.

Additionally, the above-referenced factors are satisfied by consolidation. Given the shared common questions of law and fact, the risk of prejudice and possible confusion would most certainly result from inconsistent adjudications, and the burden on parties, witnesses, and judicial resources would be unnecessarily onerous.

### **CONCLUSION**

For the foregoing reasons, Defendant respectfully requests that this Honorable Court grant this motion, and consolidate and merge Todd Ford, Jr. v. Warden Richard Smith, et al., Civil Action No. 20-cv-18863-RMB-AMD with this case.

Dated: April 6, 2021

Respectfully Submitted,

By: /s/ Gregg Zeff

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**CERTIFICATE OF SERVICE**

I, Gregg Zeff, do hereby certify that I have this day mailed, by United States mail, postage pre-paid, a true and correct copy of the above and foregoing Defendants' Motion to Consolidate and Notice of Motion to Consolidate via ECF

That the 6<sup>th</sup> day of April , 2021.

1. The actions captioned Raymond Lamar Brown, et al. v. Charles Warren, et al., Civil Action No. 1:20-cv-7907-NHL-KMW, and Todd Ford, Jr. v. Warden Richard Smith, et al., Civil Action No. 20-cv-18863-RMB-AMD are hereby consolidated pursuant to Rule 42(a) of the Federal Rules of Civil Procedure are under Civil Action No. 1:20-cv-7907-NHL-KMW.

2. All future pleadings pertaining to either of the above-referenced actions shall be filed under Civil Action No. 1:20-cv-7907-NHL-KMW under the caption Raymond Lamar Brown, et al. v. Charles Warren, et al.
3. All actions filed in the future in this District or transferred to this District that allege claims arising out of the same or substantially similar facts as alleged in the above-referenced actions will be, until further order of this Court, consolidated with Case No. 1:20-cv-7907-NHL-KMW.
4. The Court requests the assistance of counsel in calling to the attention of the Clerk the filing or transfer of any case which might be properly consolidated as part of Civil Action No. 1:20-cv-7907-NHL-KMW pursuant to the provisions of this Order.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2021

\_\_\_\_\_  
Hon. Noel L. Hillman  
United States District Judge